

# Exhibit B

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

RUTH SMITH, individually and  
on behalf of all others Case No. 1:22-cv-00081-LMB-WEF  
similarly situated,  
Plaintiff,  
vs.  
SUNPATH, LTD, a Massachusetts  
corporation,  
Defendant.

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VIDEOCONFERENCED 30(b)(6) DEPOSITION OF SUNPATH, LTD  
(through ANDREW GARCIA)  
December 8, 2022

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VIDEOCONFERENCED APPEARANCES:

ON BEHALF OF THE PLAINTIFF:

PATRICK H. PELUSO, ESQ.  
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ON BEHALF OF THE DEFENDANT:

GREGORY CAFFAS, ESQ.  
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Also Present: Paul Sporn, Esq.

1 can answer to the extent you're able to, Andrew.

2 A. I assume so.

3 Q. (By Mr. Peluso) Okay. All right. We can  
4 move on. Just real quickly, this document that I've  
5 labeled Exhibit 4, can you see it?

6 A. Yep.

7 Q. It is a two-, three-page document. I think  
8 it's three, but the third page is just blank. Have you  
9 seen this before?

10 A. I don't believe so, no.

11 Q. Okay. Well, let's take -- take a look at  
12 it together then. Okay?

13 You'll see that it says "Licensee Search"  
14 at the top. And then it says -- you notice there's a  
15 stamp that says "Chief Financial Officer, Florida  
16 Department of Financial Services." Do you see that?

17 A. Yep.

18 Q. So I'll represent to you that this is a --  
19 a printout -- a screenshot of a website operated by the  
20 Florida Department of Financial Services where you're able  
21 to search for licensees in that state. And as you'll see,  
22 the -- the first page, you know, the title says "Licensee  
23 Detail" and then there's a license number, and then a full  
24 name of Chukran Management Group, LLC. Do you see that?

25 A. Yep.

1 Q. So we're looking at the licensee details  
2 for Chukran Management Group, which is the entity that's a  
3 party to the contract that we just reviewed as Exhibit 3.

4 A. Okay.

5 Q. Scrolling down, it's kind of split between  
6 the first and second page, but, you know, it says valid  
7 licenses. The type of license is automobile warranty.  
8 And then it says active appointments, automobile warranty,  
9 and then there's two companies listed there. One says  
10 Wesco Insurance Company, and then the second one says  
11 SunPath Ltd Corp d/b/a SunPath Ltd Corp of Delaware.

12 Do you see that?

13 A. Yep.

14 Q. Safe to say that that is your company,  
15 SunPath?

16 A. Yes.

17 Q. Do you have any knowledge of -- of what a  
18 licensee appointment in this context means and why SunPath  
19 would be listed?

20 A. Yes.

21 Q. Can you explain that to me?

22 A. Because Florida requires that they be  
23 appointed to sell there if they want to sell products in  
24 Florida.

25 Q. Okay. So is it -- is it accurate to say

1 that in order to sell SunPath products in Florida, there  
2 has to be a licensee appointment affiliating the entity  
3 with SunPath?

4 MR. CAFFAS: I'm going to object to the  
5 extent that it calls for a legal conclusion, object to the  
6 extent it's not relevant, and object to the extent it  
7 calls for speculation. But, Andrew, you can answer to the  
8 extent you're able to.

9 A. Yeah. I know that they have to get  
10 appointed and they need to have a license for Florida, but  
11 what that means legally, I have no idea.

12 Q. (By Mr. Peluso) Right. Okay. Is SunPath  
13 involved in the process of being listed as an active  
14 appointment with the State of Florida, or is that  
15 something that the third party just kind of handles?

16 MR. CAFFAS: Before you answer, Andrew,  
17 I'll also raise the objection of relevance before you  
18 answer, but you can answer to the extent you're able to.

19 A. We confirmed that they obtained the license  
20 when they request signup to, you know, get access to our  
21 products.

22 Q. (By Mr. Peluso) Is there any paperwork  
23 that SunPath has to file with the State of Florida in  
24 order to get this appointment active?

25 MR. CAFFAS: Objection again, relevance and

1 to the extent it calls for speculation. You can answer,  
2 Andrew.

3 A. Yeah. Our attorney handles it after we  
4 find out if they have a license. I don't know the exact  
5 process.

6 Q. (By Mr. Peluso) Okay. But SunPath is  
7 involved in that appointment process, even if it's just  
8 handled by SunPath's in-house attorney; correct?

9 MR. CAFFAS: Objection. Again, relevance.  
10 Objection on the grounds of speculation and on the grounds  
11 that it misstates the witness's testimony. You can answer  
12 to the extent you're able to, Andrew.

13 A. I know we have to get the license from the  
14 entity, and I don't know what happens after that.

15 Q. (By Mr. Peluso) Would anyone at SunPath  
16 know?

17 A. Our attorney.

18 Q. Okay. What is that attorney's name?

19 A. Paul Sporn.

20 Q. And then on that "Active Appointment" tab  
21 there, you know, next to SunPath, it says there's an issue  
22 date of 9/20/2021, and then I guess it expires on  
23 9/30/2023. Do you see that?

24 A. Yeah.

25 Q. If we go down to sort of the bottom of that

1 like to go through these topics with you.

2 Topic 1 says, "All telephone calls you or  
3 any third party acting on your behalf caused to be made to  
4 plaintiff."

5 Did SunPath place any calls to plaintiff?

6 A. No. We don't -- we don't make any phone  
7 calls unless it's for people who have called us about  
8 claims.

9 Q. Right. That's my understanding, as well.  
10 So SunPath does not do outbound telemarketing itself;  
11 correct?

12 A. No. Nobody makes calls on our behalf,  
13 either.

14 Q. Okay. I think we could disagree on that,  
15 but --

16 MR. CAFFAS: Objection to form.

17 Q. (By Mr. Peluso) Any legal conclusions  
18 about "on behalf of" are not really what I'm asking about.

19 So safe to say SunPath doesn't make  
20 telemarketing calls? Any calls that it would make would  
21 just be sort of direct calls with its customers if someone  
22 calls in with an issue about a claim or something like  
23 that?

24 A. Yes. And no one makes calls for us,  
25 either. On behalf.

1 CRM or somehow --

2 A. We don't -- we don't have any access to  
3 that. The CRM will send us a file weekly of sales that  
4 it's gotten from the contractor.

5 Q. Those weekly files, are they just sent over  
6 email?

7 A. I do not believe they are sent by email.  
8 They are more secure than that. They are put into like  
9 FTP folders.

10 Q. Okay. Approximately how many persons  
11 during the duration of this relationship were sold a  
12 SunPath service contract by American Protection and then  
13 had their -- had that sale reflected in these weekly file  
14 transfers?

15 MR. CAFFAS: Before you answer, Andrew,  
16 I'll object to relevance. I'll object to the extent it  
17 calls for speculation. You can answer to the extent  
18 you're able.

19 A. I don't know. Probably in the range of a  
20 few hundred, maybe.

21 Q. (By Mr. Peluso) A few hundred total?

22 A. I said a few hundred. I don't -- I don't  
23 know offhand how many contracts they actually sold, but  
24 it's a pretty small amount.

25 Q. Okay. I just want to make sure we're clear



1 with you about is Topic 24 here, that says, "Your sources  
2 of revenue, including the portion of your revenue that is  
3 generated from sales made by third parties acting on your  
4 behalf."

5 So just, you know, to sort of -- to frame  
6 this a little bit, I'm not asking you to disclose  
7 SunPath's total revenue; right? Give me a number. I'm  
8 not asking that. And I -- I understand sort of your  
9 consistent statement through this deposition that third  
10 parties don't act on your behalf. So let's sort of  
11 reframe this to -- a way that I think everyone can agree.

12 I'm interested in understanding the portion  
13 of SunPath's revenue that is generated from sales made by  
14 third parties who sell SunPath's service contracts.

15 Is that 100 percent of SunPath's revenue?  
16 Is it 10 percent? What sort of chunk of its revenue do  
17 you think is generated by third-party sales?

18 A. 100 percent of our revenue is from third  
19 parties because we don't do any selling.

20 MR. PELUSO: Okay. Easy enough. I don't  
21 really have anything else. I'll turn it over to Greg.

22 EXAMINATION

23 BY MR. CAFFAS:

24 Q. Great. First things first. I just want to  
25 address that last line of questioning that Pat just